

**PT 00-10**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>CENTRAL ILLINOIS COMMUNITY</b>	)		
<b>BLOOD BANK</b>	)		
	)	<b>A.H. Docket #</b>	<b>99-PT-0005</b>
<b>Applicant</b>	)		
	)	<b>Docket #</b>	<b>98-84-34</b>
<b>v.</b>	)		
	)	<b>Parcel Index #s</b>	<b>14-34.4-378-023</b>
<b>THE DEPARTMENT OF REVENUE</b>	)		<b>14-34-378-023</b>
<b>OF THE STATE OF ILLINOIS</b>	)		

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Mr. Hugh J. Graham, III, attorney at law, appeared on behalf of the Central Illinois Community Blood Bank.

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, on August 31, 1999, to determine whether or not Sangamon County Parcel Index No. 14-34.4-378-023 qualified for exemption from real estate taxation for the 1998 assessment year.

Mr. David R. Parsons, Chief Executive Officer, of the Central Illinois Community Blood Bank (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The parcels here in issue are located north of and adjacent to the first parcel owned by the applicant and the building thereon. The building on the parcels here in issue is a two-story building with a basement. Sangamon County Parcel Index No. 14-34-378-023 includes the basement and first floor of the aforesaid building. The Department has determined that Parcel No. 14-34-378-023 is exempt from real estate taxes for the 1998 assessment year. This hearing concerned the second floor of the building here in issue, which is identified as Sangamon County Parcel Index No. 14-34.4-378-023. On January 1, 1998, Parcel No. 14-34.4-378-023 contained 4 one-bedroom apartments, which were all rented to tenants.

The issues in this matter include: whether the applicant owned Parcel No. 14-34.4-378-023 during all of the 1998 assessment year; secondly, whether the applicant is a charitable organization; and thirdly, whether the applicant used this parcel for primarily charitable purposes during all or part of the 1998 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned Parcel No. 14-34.4-378-023 during all of the 1998 assessment year. It is also determined that the applicant is a charitable organization. It is determined that the applicant used Apartment B of Parcel No. 14-34.4-378-023 during the period June 1, 1998, through August 31, 1998, for storage. The applicant used all of this parcel for storage during the period September 1, 1998, through December 31, 1998.

It is therefore determined that 25% of Parcel No. 14-34.4-378-023 be exempt for 25% of the 1998 assessment year and that all of said parcel be exempt for 33% of the 1998 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that Sangamon County Parcel Index No. 14-34.4-378-023 was not in exempt use during the 1998 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 6A.

2. The applicant was incorporated pursuant to the "General Not For Profit Corporation Act" of Illinois on September 3, 1971, for purposes which included among others the following:

A. To create and establish a permanent depository and distribution facility for blood and other tissues, for the use of individuals requiring the same.

B. To obtain, possess, store and furnish human blood, blood derivatives and other human tissues to the patients of all hospitals and other medical facilities as may be conveniently done. (Dept. Ex. No. 2J)

3. The applicant provides blood and blood products to hospitals in Carrollton, Carlinville, Jacksonville, Springfield, and Taylorville. (Dept. Ex. No. 2AD)

4. On October 1, 1996, the applicant purchased this property pursuant to a warranty deed. This property is directly north of the first building owned by the applicant at the northeast corner of 7<sup>th</sup> and Allen Streets in Springfield, Illinois. (Dept. Ex. No. 2D)

5. The parcels here in issue consist of a lot with a two-story building and a basement located thereon. The lot, the basement, and the first floor of this building are identified as Sangamon County Parcel Index No. 14-34-378-023. The first floor of this building, at the time it was acquired by the applicant from Drs. Young and Ertmoed, was being used as an OB/GYN clinic. Sangamon County Parcel Index No. 14-34.4-378-023 identifies the second floor of this building. The second floor at the time it was acquired contained four one-bedroom apartments of approximately equal square footage, all of which were rented out to tenants. (Dept. Ex. No. 2D, Tr. pp. 20, 21, 24, 26 & 43)

6. Shortly after acquiring this property applicant proceeded to remodel the first floor. The applicant removed a number of walls and replaced the lighting as well as improving the heating and air conditioning. After the remodeling was completed the first floor has been used as an area where donors may come in and give blood. The applicant has moved its computers from the first building that it owned into the basement of the building on this property. (Tr. pp.17 & 26-28)

7. Between February 15, 1998, and May 20, 1998, all four apartments on the second floor were vacated by the tenants. Apartment B remained vacant and unused until June 1, 1998, when the applicant began to use it for the storage of surplus furniture. The applicant had

determined that it would use Apartment B for storage and would remodel the other three apartments. (Appl. Ex. No. 11, Tr. p.47)

8. Apartments A, C, and D remained vacant and unused during June, July, and August of 1998 while Evans Construction Company prepared a bid to remodel two of those three apartments into offices and the third into a conference room. That bid was submitted to the applicant on August 18, 1998. (Appl. Ex. No. 11, Tr. p. 47)

9. On August 20, 1998, the Executive Committee of the Applicant's Board of Directors voted to delay remodeling the second floor until the costs could be formally budgeted. Until the costs were budgeted the Executive Committee directed that apartments A, C, and D also be used for storage. Beginning on September 1, 1998, and continuing through December 31, 1998, the entire second floor was used for storage. The items stored on the second floor included medical equipment, both excess and back up, old computers and printers, surplus furniture, and temporary partitions. (Appl. Ex. No. 11, Tr. pp. 45-47)

10. I take Administrative Notice of the Department's decision in Docket No. 94-84-50 in which it was determined that the applicant was a charitable organization and that the applicant's first building located at the northeast corner of 7<sup>th</sup> and Allen Streets qualified for exemption from real estate taxation. (Dept. Ex. No. 2L)

11. I also take Administrative Notice of the Department's decision in this matter in which it was determined that the applicant was still a charitable organization and that the land, basement, and first floor of this property qualified for exemption from property taxation for the 1998 assessment year. (Dept. Ex. No. 3)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to this constitutional grant of authority, the General Assembly has enacted property tax exemption provisions. Concerning charitable organizations, 35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States. . . .

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1<sup>st</sup> Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2<sup>nd</sup> Dist. 1989); and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore very clear that the burden of proof is on the applicant to establish that it is entitled to an exemption.

During the early months of 1998, each of the four apartments on the parcel here in issue was rented out to a tenant. The Illinois Courts have consistently stated the general principle that the use of property to produce income is not an exempt use. People ex rel. Baldwin v. Jessamine

Withers Home, 312 Ill. 136 (1924). *See also* The Salvation Army v. Department of Revenue, 170 Ill.App.3d 336 (2<sup>nd</sup> Dist. 1988), leave to appeal denied. It has also been held that a lease is a lease for profit whether the lessor generates a profit or sustains a loss. *See* Turnverein "Lincoln" v. Board of Appeals, 358 Ill. 135 (1934).

Concerning the portion of 1998 when each of the four apartments on the parcel here in issue was vacant and not used, the Illinois Supreme Court in the case of People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), held that the mere fact that a property was intended to be used for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be exempt. In the case of Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1<sup>st</sup> Dist. 1983), the Court held that property which was vacant and not used did not qualify for the statutory exemption as property used exclusively for exempt purposes regardless of the owner's intent.

In the case of Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App.3d 1055 (5<sup>th</sup> Dist. 1990), the Court held that a parcel owned by an exempt organization and used to store the property of that exempt organization qualified for exemption. I have taken Administrative Notice of the decision in 94-84-50 in which it was determined that the applicant was a charitable organization. I have also taken Administrative Notice of the decision for 1998 concerning the land, basement, and first floor of the building in this matter in which the Department again determined that the applicant is an exempt charitable organization.

I conclude that the applicant owned Parcel No. 14-34.4-378-023 during the entire 1998 assessment year. I also conclude that the Department has determined that the applicant was a charitable organization during the 1998 assessment year. In addition, I conclude that the applicant used Apartment B for exempt purposes during the period June 1, 1998, through August 31, 1998. I finally conclude that the applicant used all of Parcel No. 14-34.4-378-023 for exempt purposes during the period September 1, 1998, through December 31, 1998.

I therefore recommend that 25% of Parcel No. 14-34.4-378-023 be exempt for 25% of the 1998-assessment year and that all of said parcel be exempt for 33% of the 1998-assessment year.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
April 19, 2000